

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EFREN GARRIDO, *individually and on behalf
of all others similarly situated*,

Plaintiffs,

-against-

F&M CONSTRUCTION AND
DEVELOPMENT CORP. and FODIE M.
KOITA,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/18/2022

21-cv-4084-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On June 30, 2022, the Court held a conference in this matter to address the “repeated failure” of defense counsel and Defendants “to heed the Court’s orders and warnings” and produce discovery in this case [ECF No. 54]. At the conference, defense counsel represented that he would produce all outstanding discovery by the close of business that day. In an Order dated June 30, 202, the Court directed Defendants to produce the discovery materials by 5:00 p.m. on June 30, 2022 [ECF No. 58]. The Court stated that, if Defendants failed to comply, the Court would impose monetary sanctions, and Defendants would be precluded from offering at trial any materials that were not produced by the 5:00 p.m. deadline. As both parties acknowledge, Defendants produced the materials between 8:17 p.m. on June 30, 2022 and 12:06 a.m. the next morning [ECF Nos. 59–65, 66, 67]. Plaintiffs “submit that Defendants should be precluded from offering any” of the materials they produced, since it was all produced after the 5:00 p.m. deadline [ECF No. 66]. Defendants request that “the Court rescind its Order” and “allow the Defendants[’] discovery responses to be admitted . . . at trial” [ECF No. 67].

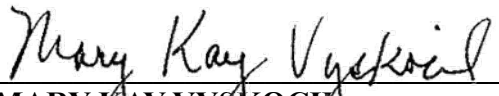
IT IS HEREBY ORDERED that Defendants will be permitted to offer at trial the materials produced between 8:17 p.m. on June 30, 2022 and 12:06 a.m. the next morning. Defendants will be precluded from offering any discovery that was not produced by 12:06 a.m. on July 1, 2022. IT IS FURTHER ORDERED that the Court is sanctioning the defense in the amount of Plaintiff’s costs in

bringing on the motion to compel production of the discovery [ECF No. 40]. The Court notes that the failure of the defense to produce any materials by the 5:00 p.m. deadline was compounded by the failure of the defense to communicate with the Court about the need for additional time, and these failures continued a months-long pattern of similar sanctionable conduct.

IT IS FURTHER ORDERED that the parties shall file a joint status letter by July 29, 2022. The Clerk of Court is respectfully directed to terminate the letter motion at docket entry 67.

SO ORDERED.

Date: July 18, 2022
New York, NY



MARY KAY VYSKOCIL
United States District Judge